

CITY OF MAYWOOD

Audit Report

SPECIAL GAS TAX STREET IMPROVEMENT FUND

July 1, 2004, through June 30, 2011



JOHN CHIANG
California State Controller

July 2012



JOHN CHIANG
California State Controller

July 11, 2012

The Honorable Edward Varela
Mayor of the City of Maywood
4319 East Slauson Avenue
Maywood, CA 90270

Dear Mayor Varela:

The State Controller's Office audited the City of Maywood's Special Gas Tax Street Improvement Fund for the period of July 1, 2004, through June 30, 2011. We also audited the Traffic Congestion Relief Fund allocations recorded in the Special Gas Tax Street Improvement Fund for the period of July 1, 2004, through June 30, 2011.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, except that it understated the fund balance by \$492,420 as of June 30, 2011. The city understated the fund balance because it charged ineligible bond debt service payments totaling \$445,039 (\$190,526 in fiscal year 2008-09 and \$254,513 in fiscal year 2009-10) for non-voter-approved Lease Revenue Refunding Bonds. In addition, the city charged \$47,381 of street costs to Gas Tax Fund #4, which should have been charged to Proposition 1B Fund #47. In addition, we identified a procedural finding.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: Regina Tercero, Finance Director
City of Maywood
Lilian Myers, City Manager
City of Maywood

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	2
Follow-Up on Prior Audit Findings	2
Views of Responsible Official	2
Restricted Use	3
Schedule 1—Reconciliation of Fund Balance	4
Findings and Recommendations	5
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office audited the City of Maywood's Special Gas Tax Street Improvement Fund for the period of July 1, 2004, through June 30, 2011. We also audited the Traffic Congestion Relief Fund (TCRF) allocations recorded in the Special Gas Tax Street Improvement Fund for the period of July 1, 2004, through June 30, 2011.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, except that the city understated the fund balance by \$492,420 as of June 30, 2011. The city understated the fund balance because it charged ineligible bond debt service payments totaling \$445,039 (\$190,526 in fiscal year 2008-09 and \$254,513 in fiscal year 2009-10) for non-voter-approved Lease Revenue Refunding Bonds. In addition, the city charged \$47,381 of street costs to Gas Tax Fund #4, which should have been charged to Proposition 1B Fund #47. In addition, we identified a procedural finding.

Background

The State apportions funds monthly from the highway users tax account in the transportation tax fund to cities and counties for the construction, maintenance, and operation of local streets and roads. The highway users taxes derive from state taxes on the sale of motor vehicle fuels. In accordance with Article XIX of the California Constitution and Streets and Highways Code section 2101, a city must deposit all apportionments of highway users taxes in its Special Gas Tax Street Improvement Fund. A city must expend gas tax funds only for street-related purposes. We conducted our audit of the city's Special Gas Tax Street Improvement Fund under the authority of Government Code section 12410.

Government Code section 14556.5 created a Traffic Congestion Relief Fund in the State Treasury for allocating funds quarterly to cities and counties for street or road maintenance, reconstruction, and storm damage repair. Cities must deposit funds received into the city account designated for the receipt of state funds allocated for transportation purposes. The city recorded its TCRF allocations in the Special Gas Tax Street Improvement Fund. We conducted our audit of the city's TCRF allocations under the authority of Revenue and Taxation Code section 7104.

Objective, Scope, and Methodology

Our audit objective was to determine whether the city accounted for and expended the Special Gas Tax Street Improvement Fund in compliance with Article XIX of the California Constitution, the Streets and Highways Code, and Revenue and Taxation Code section 7104. To meet the audit objective, we determined whether the city:

- Properly deposited highway users tax apportionments and other appropriate revenues in the Special Gas Tax Street Improvement Fund;

- Expended funds exclusively for authorized street-related purposes; and
- Made available unexpended funds for future expenditures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the city's financial statements. We limited our audit scope to planning and performing the audit procedures necessary to obtain reasonable assurance that the city accounted for and expended the Special Gas Tax Street Improvement Fund in accordance with the requirements of the Streets and Highways Code, and Revenue and Taxation Code section 7104. Accordingly, we examined transactions, on a test basis, to determine whether the city expended funds for street purposes. We considered the city's internal controls only to the extent necessary to plan the audit.

Conclusion

Our audit disclosed that the City of Maywood accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with Article XIX of the California Constitution and the Streets and Highways Code for the period of July 1, 2004, through June 30, 2011, except as noted in Schedule 1 and described in the Findings and Recommendations section of this report. The findings require an adjustment of \$492,420 to the city's accounting records.

Our audit also disclosed that the city accounted for and expended its TCRF allocations recorded in the Special Gas Tax Street Improvement Fund in compliance with Article XIX of the California Constitution, the Streets and Highways Code, and Revenue and Taxation Code section 7104 for the period of July 1, 2004, through June 30, 2011.

Follow-Up on Prior Audit Findings

Our prior audit report, issued on December 23, 2005, disclosed no findings.

Views of Responsible Official

We issued a draft audit report on May 16, 2012. Regina Tercero, Finance Manager, responded by letter dated June 18, 2012, agreeing with the audit results. The city's response is included in this final audit report as an attachment.

Restricted Use

This report is intended for the information and use of the City of Maywood's management and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

July 11, 2012

Schedule 1— Reconciliation of Fund Balance July 1, 2010, through June 30, 2011

	Special Gas Tax Street Improvement Fund		
	Highway Users Tax Allocations ¹	TCRF Allocations ²	Totals
Beginning fund balance per city	\$ 97,628	\$ —	\$ 97,628
Revenues	745,287	—	745,287
Total funds available	842,915	—	842,915
Expenditures	(126,399)	—	(126,399)
Ending fund balance per city	716,516	—	716,516
SCO adjustments: ³			
Finding 1—Ineligible expenditure	445,039	—	445,039
Finding 2—Reimbursement due Special Gas Tax Street Improvement Fund	47,381	—	47,381
Total SCO adjustments	492,420	—	492,420
Ending fund balance per audit	<u>\$ 1,208,936</u>	<u>\$ —</u>	<u>\$ 1,208,936</u>

¹ The city receives apportionments from the state highway users tax account, pursuant to Streets and Highways Code sections 2105, 2106, 2107, and 2107.5. The basis of the apportionments for sections 2105, 2106, and 2107 varies, but the money may be used for any street purpose. Streets and Highways Code section 2107.5 restricts apportionments to administration and engineering expenditures, except for cities with populations of fewer than 10,000 inhabitants. Those cities may use the funds for rights-of-way and for the construction of street systems. The audit period was July 1, 2004, through June 30, 2011; however, this schedule only includes the period of July 1, 2010, through June 30, 2011.

² Government Code section 14556.5 created a Traffic Congestion Relief Fund (TCRF) in the State Treasury for allocating funds quarterly to cities and counties for street and road maintenance, reconstruction, and storm damage repair. The TCRF allocations were recorded in the Special Gas Tax Street Improvement Fund. The audit period was July 1, 2004, through June 30, 2011. However, there were no TCRF transactions in FY 2010-11.

³ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Ineligible expenditures

The city charged ineligible bond debt service payments (principal and interest) of \$190,526 and \$254,513 to the Special Gas Tax Street Improvement Fund during fiscal year (FY) 2008-09 and FY 2009-10, respectively. The total ineligible debt service payments of \$445,039 were for non-voter-approved Lease Revenue Refunding Bonds.

Streets and Highways Code section 2107.4 states:

Not more than one-quarter of the funds allocated to a city or county from the Highway Users Tax Account in the Transportation Tax Fund for the construction of Streets therein may be used to make principal and interest payments on bonds issued for such construction, if the issuance of such bonds is authorized by a proposition approved by a majority of the votes cast thereon. The term of any such bonds shall not exceed 25 years.

Recommendation

The city should reimburse the Special Gas Tax Street Improvement Fund for ineligible bond debt service payments totaling \$445,039 for FY 2008-09 and FY 2009-10. In the future, the city should ensure that all bond debt service payments charged to the Special Gas Tax Street Improvement Fund are for voter-approved bonds. Additionally, the city should ensure that the proceeds from the bonds are used for street work and debt service payments, and do not exceed one-quarter of the annual gas tax allocations, and the terms of the bonds do not exceed 25 years.

City's Response

The city will reimburse the Special Gas Tax Street Improvement Fund for the ineligible bond debt service payments totaling \$445,039 for FY 2008-09 and FY 2009-10. The city will comply with all requirements in the use of future bond proceeds for bond debt service payments, if using Special Gas Tax Street Improvement Fund. FY 2008-09 and FY 2009-10 were the only two fiscal years when the ineligible expenditures for bond debt service occurred. Before and after these two fiscal years bond debt service payments were made from the General Fund. After fiscal year 2009-10 bond payments were no longer made from the Special Gas Tax Street Improvement Fund.

SCO's Comment

The city agreed with the finding and recommendation.

**FINDING 2—
Reimbursement due
Gas Tax Fund**

The city charged \$47,381 to Gas Tax Fund #4 for expenditures incurred on the Proposition 1B Local Street Rehabilitation Project during FY 2009-10. These street costs should have been charged to the Proposition 1B Fund #47.

Recommendation

The city should reimburse Gas Tax Fund #4 by \$47,381 from Proposition 1B Fund #47 for expenditures incurred on the Proposition 1B Local Street Rehabilitation Project during the FY 2009-10.

City's Response

The city has adjusted for the expenditures of \$47,381 from the Gas Tax Fund #4 to Prop 1B #47 as of June 30, 2011.

SCO's Comment

The city agreed with the finding and recommendation.

**PROCEDURAL
FINDING—
General Fund cash
impairment**

During our audit, we found that the city's General Fund cash account reported month-end negative balances from July 2008 through December 2008, and for March 2009, April 2009, and the entire FY 2010-11. As the General Fund is the chief operating fund of the city, it appears that whenever it approaches a zero balance, the city has allowed the General Fund to borrow from the city's investment pool to pay for the city's operating costs. This situation is concerning because the city pools its available cash from various funds including the State Gas Tax Fund and Proposition 1B Fund for investment purposes. As of today, the city has not demonstrated that it has restored the financial health of the General Fund and thus, it is inadvertently affecting the integrity of the Gas Tax Fund and the Proposition 1B Fund.

Streets and Highways Code section 2118 imposes a mandatory duty on the Controller to ensure that the city deposits money received from the highway user's tax fund into a separate bank account when deemed necessary.

At this time, the State Controller's Office deems it necessary for a separate bank account to be established.

Recommendation

The city must establish a separate bank account for the state gas tax and Proposition 1B funds. This account shall be used to record all deposits and expenditures against these moneys. The city has 30 days to provide the State Controller's Office with proof that a separate bank account has been established. The bank account shall remain open until the city provides evidence that, over a reasonable period of time, it has restored the financial health of the General Fund.

City's Response

In May 2012 the city opened a separate bank account for special funds, segregating them from the General Fund. The city will make periodic transfers of funds from the General Fund to the new account for the balance of the Gas Tax Fund and the Prop 1B Fund. Bank documents for the newly-opened account for special funds are enclosed with this report.

SCO's Comment

The city agreed with the finding and recommendation.

**OTHER ISSUE—
Time extension
request**City's Request

As a separate request, given the extreme organizational changes experienced in Maywood, I would like [to] request an extension to expend FY 2007-08 Prop 1B Funds in the amount of \$481,838 until June 30, 2013, to expend FY 2007-08 Prop 1B Funds in the amount of \$481,838, so that projects can be completed.

SCO's Comment

Assembly Bill (AB) 105 only authorizes a city that receives Proposition 1B funds in a fiscal year in which Highway Users Tax Account funds are deferred, suspended, borrowed, or shifted, to expend those moneys within four years. Consequently, Proposition 1B moneys received in FY 2007-08 must be expended by the end of FY 2011-12.

**Attachment—
City's Response to
Draft Audit Report**



City of Maywood

4319 East Slauson Avenue Maywood, CA 90270 Telephone (323) 562-5000 Fax (323) 773-2806

June 18, 2012

Mr. Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Mar:

Attached is the city's response to the audit conducted by the State Controller's Office of the City of Maywood's Special Gas Tax Street Improvement Fund for the period July 1, 2004 through June 30, 2011 and the Traffic Congestion Relief Fund (TCRF) allocations recorded in the Special Gas tax Street Improvement Fund for the period of July 1, 2004 through June 30, 2011.

The city concurs with Audit Findings 1 and 2 and with the Procedural Finding. In Schedule 1 of your report under SCO adjustments, please note that the city adjusted for the expenditures of \$47,381 from the Special Gas Tax Street Improvement Fund to the Prop 1B Fund subsequent to your audit.

In response to the Procedural Finding, a separate bank account has been established for special funds to segregate them from the General Fund.

Attached are the city responses to the audit recommendations for your reference.

As a separate request, given the extreme organizational changes experienced in Maywood, I would like request an extension to expend FY 2007-08 Prop 1B Funds in the amount of \$481,838 until June 30, 2013, so that projects can be completed.

If you need additional information or clarification, please call me at (323) 562-5707.

Sincerely,

Regina Tercero
Finance Manager

cc: Lilian Myers, City Manager

**City of Maywood
Special Gas Tax Street Improvement Fund Audit**

RESPONSE TO AUDIT FINDINGS AND RECOMMENDATIONS :

FINDING 1 – Ineligible expenditure

Recommendation

The city should reimburse the Special Gas Tax Street Improvement Fund for ineligible bond debt service payments totaling \$445,039 for FY 2008-09 and FY 2009-10. In the future the city should ensure that all bond debt service payments charged to the Special Gas Tax Street Improvement Fund are for voter-approved bonds. Additionally, the city should ensure that the proceeds from the bonds are used for street work and debt service payments, and do not exceed one-quarter of the annual gas tax allocations, and the terms of the bonds do not exceed 25 years.

City Response

The city will reimburse the Special Gas Tax Street Improvement Fund for the ineligible bond debt service payments totaling \$445,039 for FY 2008-09 and FY 2009-10. The city will comply with all requirements in the use of future bond proceeds for bond debt service payments, if using Special Gas Tax Street Improvement Fund. FY 2008-09 and FY 2009-10 were the only two fiscal years when the ineligible expenditures for bond debt service occurred. Before and after these two fiscal years bond debt service payments were made from the General Fund. After fiscal year 2009-10 bond payments were no longer made from the Special Gas Tax Street Improvement Fund.

FINDING 2 – Reimbursement due to Gas Tax Fund

Recommendation

The city should reimburse Gas Tax Fund #4 by \$47,381 from Proposition 1B Fund #47 for expenditures incurred on the Proposition 1B Local Street Rehabilitation Project during FY 2009-10.

City Response

The city has adjusted for the expenditures of \$47,381 from the Gas Tax Fund #4 to Prop 1B #47 as of June 30, 2011.

PROCEDURAL FINDING - General Fund Cash Impairment

Recommendation

The city must establish a separate bank account for the state gas tax and Proposition 1B funds. This account shall be used to record all deposits and expenditures against these moneys. The city has 30 days to provide the State Controller's Office with proof that a separate bank account has been established. The bank shall remain open until the city provides evidence that over a reasonable period of time, it has restored the financial health of the General Fund.

City of Maywood
Special Gas Tax Street Improvement Fund Audit

City Response

In May 2012 the city opened a separate bank account for special funds, segregating them from the General Fund. The city will make periodic transfers of funds from the General Fund to the new account for the balance of the Gas Tax Fund and the Prop 1B Fund. Bank documents for the newly-opened account for special funds are enclosed with this report.



DEPOSITORY SERVICES RESOLUTION FOR GOVERNMENTAL ENTITIES

ACCOUNT NUMBER: [REDACTED]
DEPOSITOR NAME: CITY OF MAYWOOD
CONTACT: SALVADOR CONTRERAS
ADDRESS: 4319 SLAUSON AVE
[REDACTED]
[REDACTED]
MAYWOOD, CA 90270-2897
TAX IDENTIFICATION NUMBER: [REDACTED]

I, Sequoia + Calderon (name of certifying officer) do hereby certify that I am the city clerk (title of certifying officer) of the above-named governmental entity (therein called the "Depositor") a city of Maywood existing under the laws of the State of CA and that the following is a true, complete and correct copy of resolutions adopted at a meeting of the Depositor duly and properly called and held on the 2nd day of May, 2017; that a quorum was present at said meeting; and that said resolutions are now in full force and effect.

RESOLVED, that U.S. Bank National Association is hereby designated as a depository of the Depositor with authority to accept or receive at any time for the credit of the Depositor deposits by whomsoever made of funds and other property in whatever form or manner transferred to endorsed; and that any officer of the Depositor is hereby authorized to open or cause to be opened one or more accounts with the Bank on such terms, conditions and agreements as the Bank may now or hereafter require and to make any other agreements deemed advisable in regard to any of the foregoing. Depositor acknowledges and agrees that the services contemplated by this resolution shall be governed by the U.S. Bank Customer Agreement for commercial deposit accounts, as amended from time to time.

RESOLVED, that checks, drafts or other orders for the payment, transfer or withdrawal of any of the funds or other property of the Depositor on deposit with the Bank shall be binding on the Depositor when signed, manually or by use of a facsimile or mechanical signature or otherwise authorized, by any one of the individuals listed in the section entitled "Authorized Signers", and the Bank is hereby authorized to pay and charge to the account of the Depositor any such checks, drafts or other orders so signed or otherwise authorized, including those payable to the individual order of the same person or persons signing or otherwise authorizing the same and including also those payable to the Bank or to any other person for application, or which are actually applied to the payment of any such indebtedness owing the Bank from the person or persons who signed such checks, drafts or other withdrawal orders or otherwise authorized such withdrawals. In particular, and not in limitation of foregoing, such persons may authorize payment, transfer or withdrawal by oral or telephonic directions to the Bank complying with such rules and regulations relating to such authorizations as the Bank may communicate to the Depositor from time to time.

RESOLVED, that the Sequoia + Calderon (identify certifying officer by title) hereby certifies to the Bank the names and signatures (either actual or any form or forms of facsimile or mechanical signatures adopted by the person authorized to sign) of the Authorized Signers listed below and shall from time to time hereafter, upon a change in the facts so certified, immediately certify to the Bank the names and signatures (actual or facsimile) of the persons then authorized to sign or to act. The Bank shall be fully protected in relying on such certificates and on the obligation of the certifying officer (set forth above) to immediately certify to the Bank any change in any facts so certified, and the Bank shall be indemnified and saved harmless by the Depositor from any claims, demands, expenses, loss or damage resulting from or growing out of honoring or relying on the signature of her authority (whether or not properly used and, in the case of any facsimile signature, regardless of when or by whom by what means such signature may have been made or affixed) of any officer or person whose name and signature was so certified, or refusing to honor any signature or authority not so certified.



The bank is hereby authorized to recognize the signature(s) subscribed below in the payment of funds or the transaction of any business for this account. All transactions shall be governed by applicable laws and the bank's terms (copy acknowledged as received herewith that pertain to the type of account and type of ownership indicated on this card. Upon the request of the bank, any consumer reporting agency is hereby instructed to furnish a consumer report relating to the undersigned to the bank. Refer to resolution file for authorization of signatures where authorization is required. By signing this signature card, you are also acknowledging your express consent to the terms and conditions in your applicable account agreement, including but not limited to our policies on funds availability and our cellular phone bank policy.

<input checked="" type="checkbox"/> MR	<input type="checkbox"/> MS	ACCOUNT SIGNATURE 1 (DO NOT PRINT)
<input type="checkbox"/> MRS	<input type="checkbox"/> MISS	
<input type="checkbox"/> MR	<input type="checkbox"/> MS	ACCOUNT SIGNATURE 2 (DO NOT PRINT)
<input type="checkbox"/> MRS	<input type="checkbox"/> MISS	
<input type="checkbox"/> MR	<input type="checkbox"/> MS	ACCOUNT SIGNATURE 3 (DO NOT PRINT)
<input type="checkbox"/> MRS	<input type="checkbox"/> MISS	
<input type="checkbox"/> MR	<input type="checkbox"/> MS	ACCOUNT SIGNATURE 4 (DO NOT PRINT)
<input type="checkbox"/> MRS	<input type="checkbox"/> MISS	

REMARKS:

Check appropriate box for federal tax classification

☐ Individual sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate ☐ Other

☐ Limited liability company - Enter the Tax Classification: C=C Corporation, S=S Corporation, P=Partnership

Certification: Under penalties of perjury, I certify that:

(1) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be mailed to me); and

(2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

(3) I am a U.S. Citizen or other U.S. person

(4) I am an exempt payee. To claim the exemption, you must check this box: ☐

Certification Instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividend, you are not required to sign the Certification, but you must provide your correct TIN.

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

Signature of U.S. Person

Date 5/2/12

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>